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JOHN NADRATOWSKI
297 SCHWABBIE TPKE
KERHONKSON NY 12446

COPY MAILED

MAR 14 2005

OFFICE OF PETITIONS

In re Application of :
Robert Nadratowski et al :
Application No. 10/713,704 : DECISION DISMISSING PETITION
Filed: November 17, 2003 : UNDER 37 CFR 1.137(a)
For: DEVICE FOR USE WITH A GOLF CLUB :
TO PICK UP OBJECTS :

This is a decision on the petition under 37 CFR 1.137(a), filed February 23, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is not a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks items (1) and (3) above.

With regard to item (3), the petition is not considered to contain an adequate statement or showing of unavoidable delay since the petition is not signed by all the inventors. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
- (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Robert Nadratowski) was ever given a power of attorney to act on behalf of inventor John Arthur Nadratowski, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unavoidable delay.

As to item (1) above, petitioner herein has submitted a credit card authorization form to charge the following fees: \$300 for the publication fee; \$665 for the issue fee; and \$250 for the unavoidable petition fee. However, the correct amount for the issue fee, effective December 8, 2004 is \$700. Therefore, petitioner should submit a new credit card authorization form to charge the correct amount of all the fees.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy